

**REMARKS/ARGUMENTS**

In light of the above amendments and following remarks, reconsideration and allowance of this application are respectfully requested.

**I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1 and 5-10 are pending in this application. Claims 6-10 have been withdrawn from consideration. Claims 2-4 have been canceled in a previous Amendment. Claims 1 and 5 have been rejected by the Office Action.

Initially, the Examiner is thanked for withdrawing the rejections of the previous Office Action.

**II. THE REJECTIONS UNDER 35 U.S.C. § 103(a)**

In the Office Action, claim 1 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,036,154 to Pearce ("Pearce") in view of U.S. Patent No. 3,322,451 to Bredemus ("Bredemus"). In addition, claim 5 has been rejected in the Office Action under § 103(a) as allegedly being unpatentable over Pearce in view of Bredemus, and further in view of U.S. Patent No. 6,585,215 to Duncan ("Duncan"). The rejections are traversed for at least the following reasons.

Claim 1 of the instant application is directed to, *inter alia*, a ceiling fan anchoring bracket and housing assembly with a lock-up means. The lock-up means or locking device 10 is comprised of essentially three components: (a) lock-up pin 12; (b) coil spring 18; and (c) L-shaped locking plate 14 as indicated in Figure 4a. Instant Application, page 8, lines 4-18. The lock-up pin 12 and the coil spring 18 are integrated as one unit for locking the housing. The coil spring 18, which surrounds the lock-up pin 12, allows the lock-up pin 12 to retract when it engages the motor housing 30. When the lock-up pin 12 encounters the engaging hole 34 on the

motor housing 30, the biasing action of the spring causes the lock-up pin 12 to urge outward and lock into the engaging hole 34. *Id.* at page 9, lines 3-10.

Pearce is directed to a ceiling fan hanging system. The Office Action asserts that Pearce discloses all of the limitations of claim 1 except for the locking plate, coil spring and pin. In an attempt to cure the deficiencies with Pearce, the Office Action cites Bredemus for teaching that it is known to have a bracket with a lock-up means comprising a locking plate and a pin protruding therefrom through a coil spring. The Action then asserts that it would have been obvious to a person ordinarily skilled in the art to modify Pearce in view of Bredemus in order to yield the claimed invention. Office Action, page 3. Applicant respectfully disagrees.

Pearce relates to hooking a ceiling fan canopy to a hanging bracket in order to enable an installer to conveniently connect the lead wires using both hands while one side of the canopy is hanging on the hanging bracket. Pearce, col. 2, lines 20-43; lines 53-58; and col. 2, line 65 to col. 3, line 8. Even with the aid of the hanging bracket, an installer must still pivot the canopy towards the ceiling, insert a screw through the opening in the canopy and then thread the screw into the threaded opening in the end of the hanging bracket in order to secure the canopy to the hanging bracket. Col. 5, lines 12-18. This process occurs while the installer is elevated above the ground close to a ceiling.

The installation process and securing means of Pearce is very different from that of the instant invention. In contrast, with the instant invention, an installer can install a fan by simply aligning and engaging one side of the fan housing to the hook-up pins on the bracket, which are installed prior to installation. Once the hook-up pins are engaged with the holes in the housing, the user pushes the opposite side of the housing up to securely latch onto the lock-up pin on the bracket through the use of a spring action. Instant Application, page 6, line 20-page 7, line 5.

Therefore, ceiling fan installation using the instant invention is much safer and easier than that of Pearce.

Moreover, the instant invention differs from that of Pearce in additional ways. The canopy in Pearce houses and holds the entire fan motor. Therefore, the relationship between the canopy, fan motor and the hanging bracket differs from the instant invention where the assembly is used only as a decoration piece to cover the fan motor. As a result, the canopy in Pearce must bear the complete weight of the fan whereas with the instant invention, since the assembly is only a decoration piece, it does not bear any substantial weight from the other fan components. Lastly, the instant invention uses hook-up biased pins instead of screws to attach the motor housing to the anchoring plate. Screws, as used in Pearce, will loosen over time due to normal fan vibration. Therefore, the hook-up biased pins are a much more secure and safer means for attaching the assembly.

In contrast to both the instant invention and Pearce, Bredemus is directed to a latching apparatus for doors. More specifically, Bredemus provides "a latching mechanism for a double latch door." Bredemus, col. 1, lines 9-29. The mechanism in Bredemus includes a latch bolt 12 attached to a double swing door 10, which is normally urged by a spring 13 to an extended position so that it will seat in a hole or recess 14 in the doorway frame when the door 10 is closed. *Id.* at col. 1, line 65 - col. 2, line 14.

Duncan is directed to an adjustable height seat support. The seat is held in place by a movable plunger 34 that is fixed to a seat holder 12 and is caused to engage one of a plurality of plunger receptacle 40 in a seat post 18. A spring 38 positioned inside the plunger housing 32 "acts to force the plunger 34 through [a] plunger hole 30 and into plunger receptacles 40"

thereby locking the seat in position. The seat can be adjusted by manually removing the movable plunger 34 from the plunger receptacle 40. Duncan, col. 5, lines 10-33.

In the instant case, the fields of invention between the instant invention and Pearce and Bredemus and Duncan are dissimilar and unrelated. One of ordinary skill in the art of fan design and installation would not have been motivated to combine Pearce with Bredemus or Duncan either alone or in combination "to facilitate attachment of the anchoring bracket to the fan housing without the need for tools or additional attachment means such as screws or bolts" as suggested in the Office Action.

In order to ground an obviousness rejection, there must be some teaching which would have provided the necessary incentive or motivation for modifying the reference's teaching. *In re Laskowski*, 871 F.2d 115, 117 (Fed. Cir. 1989); *In re Obukowitz*, 27 U.S.P.Q. 2d 1063 (B.P.A.I. 1992). Further, "obvious to try" is not the standard under 35 U.S.C. §103. *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988). As stated by the Federal Circuit, "[t]he mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992). Also, the Examiner is respectfully reminded that for the Section 103 rejection to be proper, "both the suggestion [of the claimed invention] and the expectation of success must be founded in the prior art, and not in the Applicants' disclosure. *In re Dow*, 837 F.2d 469, 473 (Fed. Cir. 1988). In addition, it is impermissible for the Examiner to use hindsight based on an Applicant's disclosure to determine that an Applicant's invention is obvious in view of the cited art. M.P.E.P. § 2142. The motivation or teaching to make the claimed combination by modifying or combining prior art references must be found in the prior art and not in the Applicant's disclosure. *In re Vaeck*, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applying the law to the instant facts, the requisite suggestion or motivation is lacking in the documents relied upon in the Office Action. More specifically, Pearce does not teach using a lock-up means to install a motor housing. Instead Pearce teaches the use of conventional screws in order to install a fan canopy. Bredemus and Duncan do not remedy the deficiency inherent in Pearce. In addition, the motivation to make the claimed invention is only found in the Applicant's disclosure and not in the cited prior art. Therefore, combining the references to yield the claimed invention is based on improper hindsight. Consequently, the obviousness rejection is improper.

Furthermore, Applicant contends that the Bredemus reference is nonanalogous art to the instant invention and Pearce, and therefore cannot be properly applied to reject Applicant's claims. Applicant's invention is directed to a ceiling fan anchoring bracket and housing assembly that incorporates hook-up pins on one side of the anchoring bracket and a lock-up pin or locking device on the other side of the bracket that uses a spring or urging action to complete the installation. Instant Application, page 1, lines 5-11. The locking device of the instant invention is comprised of a lock-up pin having a head portion, a body portion and a tail portion, an L-shaped locking plate and a coil spring. *Id.* at page 8, lines 4-20. Pearce is directed to a ceiling fan housing system that includes a hanging bracket and a canopy. Pearce, col. 1, lines 10-13. The canopy in Pearce attaches to the hanging bracket using conventional screws. *See id.* at col. 5, lines 12-18. In contrast, as detailed above, Bredemus is directed to "a latching mechanism for a double latch door." Bredemus, col. 1, lines 9-29.

It is well established that nonanalogous art cannot be considered pertinent prior art under 35 U.S.C. § 103 and therefore cannot be relied upon as a "'basis for rejection of an applicant's invention'." *See* M.P.E.P. § 2141.01(a) (quoting *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir.

1992)). The determination as to whether a reference is analogous art is two fold. First, it must be decided if the reference is within the field of the inventor's endeavor. If it is not, it must then be determined whether the reference is "reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d at 1446. The Federal Circuit has held:

A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.

*In re Clay*, 966 F.2d 656, 659 (Fed. Cir. 1992).

In the present case, the Bredemus reference does not satisfy the above well established test of a reference falling into the category of analogous art. First, Bredemus is not within the field of the instant inventors' endeavor. As previously discussed, the instant invention and Pearce relate to the installation and design of ceiling fans. In contrast, Bredemus relates to a double swing door latch mechanism. Further evidencing the different fields of invention between the instant invention and Pearce and the Bredemus reference are the USPTO classifications of the references. *See* M.P.E.P. § 2141.01(a). As confirmed under the Application Data tab on the PAIR system for the instant application, the instant invention is classified under "Supports." Pearce is also classified under "Supports" in addition to being classified under "Fluid Reaction Surfaces." In contrast, Bredemus is classified under "Closure Fasteners." Accordingly, Bredemus is neither within the field of the instant inventors' endeavors, nor is it within the field of the Pearce reference applied in combination.

Secondly, Bredemus is not reasonably pertinent to the particular problem with which the instant inventor was involved, thus failing the second prong of the test. As previously stated,

Bredemus deals with a door latching mechanism. On the other hand, the instant invention is directed to the problems associated with when installing a ceiling fan. It is clear that the matters with which Bredemus deals with would not logically have commended itself to the instant inventor's attention in considering the problem solved by the instant invention.

Therefore, as Bredemus fails both prongs of the analogous art test, Bredemus is nonanalogous art to the instant invention and cannot be properly applied in an obviousness analysis.

Moreover, while the USPTO classification is some evidence of analogy, similarities and differences in structure and function carry more weight. *In re Ellis*, 476 F.2d 1370, 1372 (C.C.P.A. 1973). As previously discussed, the Applicants' invention is directed to ceiling fan installation. In contrast, Bredemus fails to perform a function similar to the installation of a ceiling fan. Instead, Bredemus is directed to a door latching mechanism. A ceiling fan has a completely different structure and performs a completely different function than a locking mechanism for double swing doors. Hence, the differences in structure and function of the cited references are further evidence of nonanalogy between Applicants' invention and Shimozono and Fowler.

Accordingly, Applicant respectfully submits that Bredemus is nonanalogous to the Applicant's invention and Pearce, and therefore should not have been relied upon as a basis for rejection of the Applicant's invention. Consequently, reconsideration and withdrawal of the § 103(a) rejections are respectfully requested.

For at least the foregoing reasons, Applicant respectfully submits that claims 1 and 5 patentably distinguish over Pearce, Bredemus and Duncan and are therefore allowable.

Consequently, reconsideration and withdrawal of the Section 103 rejections is earnestly requested.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicant's undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

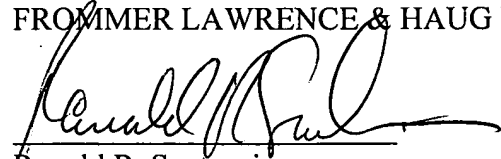
**CONCLUSION**

In view of the foregoing, it is believed that all of the claims in this application are patentable over the prior art, and an early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP

By:

  
Ronald R. Santucci  
Reg. No. 28,988  
(212) 588-0800